

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

KAREN MILLS

VS.

WALMART STORES, INC.

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CIVIL ACTION NO.: 20-CV-1409

JURY DEMANDED

**INDEX OF DOCUMENTS FILED
WITH REMOVAL ACTION**

- A. Plaintiff's Original Petition.
- B. CT Corporation Service of Process Transmittal and Executed Citation.
- C. Defendant, Walmart Stores, Inc.'s Original Answer to Plaintiff's Original Petition.
- D. Defendant, Walmart Stores, Inc.'s Demand for Jury Trial.
- E. District Clerk's Case History.
- F. List of Counsel of Record.

Exhibit A

E-FILED
Bexar County, County Clerk
Lucy Adame-Clark
Submission Date: 9/3/2020 10:57 AM
Accepted Date: 9/4/2020 10:51 AM
Accepted By: Valerie Tristan
/s/ Valerie Tristan
Deputy Clerk

CAUSE NO. 2020CV04280

KAREN MILLS,
Plaintiff,

§ IN THE COUNTY COURT

VS.

§ AT LAW NO. CC# 10

WALMART STORES, INC.
Defendant,

§ BEXAR COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, KAREN MILLS, Plaintiff, complaining of and about

WALMART STORES, INC., Defendant, and for cause of action would show unto the Court the following:

NOTICE PURSUANT TO RULES 47 AND 169 OF
THE TEXAS RULES OF CIVIL PROCEDURE

1.1 Only monetary relief over ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) but not more than TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) including damages of any kind, penalties, costs, expenses, pre-judgment interest, post judgment interest and attorney's fees are being sought.

PARTIES AND SERVICE

2.1 Plaintiff, KAREN MILLS, is an individual who resides in San Antonio, Bexar County, Texas. The last three digits of Plaintiff's Social Security are 888.

2.2 Defendant, WALMART STORES, INC., is a company operating in the State of Texas and service of process may be effected upon said Defendant by serving its registered agent: CT Corporation Systems, 1999 Bryan Street, Suite 900, Dallas, Texas 75201. The Defendant may be served with citation by serving its registered agent.

JURISDICTION AND VENUE

3.1 The subject matter in controversy is within the jurisdictional limits of this court.

3.2 This court has jurisdiction over the parties because Defendant is a corporation registered to CT Corporation Systems.

3.3 Venue in Bexar County is proper in this cause under Section 15.002 (a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

FACTS

4.1 This lawsuit results from a fall that occurred on or about October 27, 2018 on the premises of Defendant located at 5626 Walzem Road, San Antonio, Bexar County, Texas 78218. At all times prior thereto, Defendant, had complete control over the premises located in Bexar County, Texas. At the time and on the occasion in question, Plaintiff, slipped on a substance on the floor and impacted the floor owned by Defendant. During the course of Plaintiff's visit on Defendant's premises, Plaintiff was caused to suffer extensive injuries when she slipped and fell and impacted the floor. These injuries were serious in nature and required Plaintiff to seek medical attention.

4.2 Plaintiff's bodily injuries occurred as a direct result of a fall that was proximately caused by the unreasonably dangerous condition described above, which Defendant knew or, in the exercise of ordinary care, should have known existed.

4.3 Plaintiff had no knowledge of the dangerous condition that existed and could not reasonably have been expected to discover the condition.

LIABILITY OF WALMART STORES, INC.

5.1 At all times mentioned herein, Defendant owned the premises in question, located at 5626 Walzem Road, San Antonio, Bexar County, Texas 78218.

5.2 At all times mentioned herein, Defendant had such control over the premises in question that Defendant owed certain duties to Plaintiff, the breach of which proximately caused the injuries set forth herein.

5.3 This condition existed despite the fact that Defendant or Defendant's agents knew or should have known of the existence of the substance on the floor, and that there was a likelihood of a person being injured as occurred to Plaintiff.

5.4 Furthermore, Plaintiff would show the court that the condition of the floor continued for such a period of time that, had Defendant or Defendant's agents exercised ordinary care in the maintenance of its floor, it would have been noticed and corrected by such persons.

5.5 At all times pertinent herein, Defendant, and any of Defendant's agents, who were acting in the scope of their employment, were guilty of negligent conduct towards the Plaintiff in:

- (a) Failing to properly inspect and maintain the store in a reasonably safe manner;
- (b) Failing to warn Plaintiff and others of the unreasonably dangerous condition of the floor;
- (c) Failing to give warnings to Plaintiff of the substance that existed.
- (d) Failing to post warning signs, cones or protective barriers around the substance.
- (e) Failing to discover and remove the substance in the way of customers that may cause harm to customers; and

- (f) Failing to discover and remove the substance within a reasonable time.

PROXIMATE CAUSE

6.1 Each and every, all and singular of the foregoing acts and omissions, on the part of Defendant, taken separately and/or collectively, constitute a direct and proximate cause of the injuries and damages set forth below.

DAMAGES FOR PLAINTIFF

7.1 Defendant's acts or omissions described above, when viewed from the standpoint of Plaintiff at the time of the act or omissions, involved an extreme degree of risk, considering the probability of harm to Plaintiff and others.

7.2 Defendant had actual, subjective awareness of the risk involved in the above described acts or omissions, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of the Plaintiff and others.

7.3 As a direct and proximate result of the occurrence made the basis of this lawsuit, and Defendant's acts as described herein, Plaintiff, KAREN MILLS, was caused to suffer personal injuries and to endure pain and illness resulting in damages more fully set forth below. Plaintiff, KAREN MILLS, sustained injuries to her right knee, left knee, back, hip, buttock and legs and suffers from right knee pain, left knee pain, lower back pain, mid back pain, sprain of ligaments of thoracic spine, sprain of ligaments of lumbar spine, sprain of knee, pain in thoracic spine, low back pain, pain in right knee, pain in left knee, contusion of right knee, muscle spasms, tissue adhesions, swelling and inflammation. These injuries were serious in nature and required Plaintiff to seek medical attention.

7.4 As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff, KAREN MILLS, has incurred the following damages;

- (a) Reasonable medical care and expenses in the past;
- (b) Reasonable and necessary medical care and expenses which will, in all reasonable probability, be incurred in the future;
- (c) Physical pain and suffering in the past;
- (d) Mental anguish in the past;
- (e) Physical pain and suffering in the future;
- (f) Mental anguish in the future;
- (g) Physical impairment in the past; and
- (h) Physical impairment which, in all reasonable probability, will be suffered in the future.

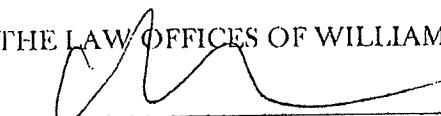
8.1 Plaintiff seeks pre-judgment interest and post-judgment interest at the maximum and monetary relief over ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) but not more than TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) including damages of any kind, penalties, costs, expenses, pre-judgment interest, post-judgment interest and attorney's fees are being sought.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff, KAREN MILLS, respectfully prays that the Defendant, WALMART STORES, INC., be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff, KAREN MILLS, against Defendant, WALMART STORES, INC., for damages aforementioned above, penalties, costs, expenses, pre-judgment interest, post-judgment interest at the maximum rate allowed by law and such other and further relief to which the Plaintiff, KAREN MILLS, may be entitled at law.

Respectfully submitted,

THE LAW OFFICES OF WILLIAM BONILLA, P.C.


CLAY BONILLA
State Bar No. 24055193
2727 Morgan Avenue
Third Floor, Bonilla Plaza
Corpus Christi, Texas 78405
Telephone No.: 361-882-8284
Facsimile No.: 361-881-1031
Email:

ATTORNEY FOR PLAINTIFF

Exhibit B



TO: Kim Lundy Service Of Process
Walmart Inc.
702 SW 8TH ST
BENTONVILLE, AR 72716-6209

RE: **Process Served in Texas**
FOR: Wal-Mart Stores, Inc. (Former Name) (Domestic State: DE)
WALMART INC. (True Name)

**Service of Process
Transmittal**

11/16/2020
CT Log Number 538604267

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Mills Karen, Pltf. vs. Walmart Stores, Inc., Dft.
Name discrepancy noted.

DOCUMENT(S) SERVED: Citation(s), Petition

COURT/AGENCY: 166th Judicial District Court Bexar County, TX
Case # 2020CV04280

NATURE OF ACTION: Personal Injury - Slip/Trip and Fall - 10/27/2018 - Bexar County, Texas.

ON WHOM PROCESS WAS SERVED: C T Corporation System, Dallas, TX

DATE AND HOUR OF SERVICE: By Process Server on 11/16/2020 at 04:23

JURISDICTION SERVED : Texas

APPEARANCE OR ANSWER DUE: By 10:00 a.m. on the Monday next after the expiration of 20 days after you were served (Document(s) may contain additional answer dates)

ATTORNEY(S) / SENDER(S): Clay Bonilla
William Bonilla, P.C.
2727 Morgan Avenue
Third Floor, Bonilla Plaza
Corpus Christi, TX 78405
361-882-8284

ACTION ITEMS: CT has retained the current log, Retain Date: 11/17/2020, Expected Purge Date: 11/22/2020

Image SOP
Email Notification, Kim Lundy Service Of Process ctlawsuits@walmartlegal.com

SIGNED: C T Corporation System
ADDRESS: 1999 Bryan St Ste 900
Dallas, TX 75201-3140

For Questions: 877-564-7529
MajorAccountTeam2@wolterskluwer.com

ON TIME PROCESS
PRIVATE PROCESS
1-800-274-6334
11-16-2020 AME
KAREN MILLS

VS.
WALMART STORES INC

(Note: Attached Document May Contain Additional Litigants.)



2020CV04280 S00001

IN THE COUNTY COURT
AT LAW NO. 10
BEXAR COUNTY, TEXAS

CITATION

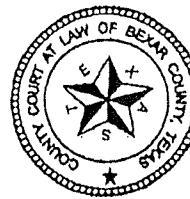
"THE STATE OF TEXAS"

Directed To: WALMART STORES INC
REGISTERED AGENT: CT CORPORATION SYSTEM
1999 BRAYN ST STE. 900
DALLAS, TX 75201-3140

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you." Said petition was filed on the 3rd day of September, 2020.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 10TH DAY OF SEPTEMBER, A.D., 2020.

CLAY BONILLA
ATTORNEY FOR PLAINTIFF
2727 MORGAN AVE
CORP CHRISTI, TX 78405-1821



LUCY ADAME-CLARK
County Clerk of Bexar County, Texas
Bexar County Courthouse
100 Dolorosa Suite 104
San Antonio, Texas 78205

By *Destiny Alaguinez, Deputy*

KAREN MILLS
VS
WALMART STORES INC

Officer's Return

Case Number: 2020CV04280
Court: County Court at Law No. 10

I received this CITATION on the _____ day of _____, 20____ at _____ o'clock M. and () executed it by delivering a copy of the CITATION on the date of delivery endorsed and to _____, in person on the _____ day of _____, 20____ at _____ o'clock M. at: _____ or () not executed because _____

Fees: _____ Badge/PPS #: _____ Date certification expires: _____

County, Texas

By: _____

OR: VERIFICATION OF RETURN (If not served by a peace officer) SWEORN TO THIS _____

NOTARY PUBLIC, STATE OF TEXAS

OR: My name is _____, my date of birth is _____, and my address is _____
County.

I declare under penalty of perjury that the foregoing is true and correct. Executed in _____ County, State of Texas, on
the _____ day of _____, 20____.

Declarant

RETURN TO COURT/DKCA0011

Exhibit C

2020CV04280

NO.: 2020CV04280

E-FILED
Bexar County, County Clerk
Lucy Adame-Clark
Submission Date: 12/4/2020 3:28 PM
Accepted Date: 12/7/2020 8:15 AM
Accepted By: Juan Teniente
Deputy Clerk

KAREN MILLS

§

IN THE COUNTY COURT

VS.

§

AT LAW NO. 2020CV04280¹⁰

WAL-MART STORES, INC.

§

BEXAR COUNTY, TEXAS

DEFENDANT'S ORIGINAL ANSWER TO PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, WAL-MART STORES, INC., Defendant in the above numbered and entitled cause of action, and files this Original Answer to Plaintiff's Original Petition and for support thereof would respectfully show unto the Court as follows:

I.

Defendant asserts denials, under Rule 92 of the Texas Rules of Civil Procedure, to each and every allegation contained in the said Petition, and demands strict proof thereof.

II.

Pleading further and without waiving the foregoing, Defendant asserts that if Plaintiff suffered injuries as a result of the incident made the basis of this lawsuit, which Defendant expressly denies by the filing of this pleading, that said injuries were caused in whole or in part by Plaintiff's own negligence or responsibility. Accordingly, Defendant asserts all rights, privileges and remedies afforded or available pursuant to Chapter 33 of the Texas Civil Practices and Remedies Code.

III.

Pleading further and without waiving the foregoing, Defendant asserts that any damages allegedly suffered by Plaintiff as a result of the incident made the basis of this lawsuit, which Defendant expressly denies by the filing of this pleading, were exacerbated by Plaintiff's failure

to mitigate said damages. Accordingly, Defendant asserts all rights, privileges and remedies afforded or available to it pursuant to the Texas Civil Practices and Remedies Code.

IV.

Pleading further and without waiving the foregoing, Defendant asserts that Plaintiff's recovery of medical or health care expenses, if any, is limited to the amount actually paid or incurred by or on behalf of Plaintiff. Accordingly, Defendant asserts all rights, privileges and remedies afforded or available to it pursuant to §41.0105 of the Texas Civil Practices and Remedies Code.

V.

Pleading further and without waiving the foregoing, Defendant asserts that Plaintiff may have had pre-existing injuries and/or conditions to Plaintiff's body, and if Plaintiff was injured as a result of the alleged incident, such injury is due, in whole or in part, to these pre-existing injuries or conditions.

VI.

Pleading further and without waiving the foregoing, Defendant asserts that the incident in question was proximately caused or solely proximately caused by the negligent and/or wrongful conduct of persons or third parties outside the control of this Defendant. Accordingly, Defendant asserts all rights, privileges and remedies afforded or available to it pursuant to Chapter 33 of the Texas Civil Practices and Remedies Code.

VII.

Pleading further and without waiving the foregoing, Defendant would show that Plaintiff's alleged injuries and damages are the result of subsequent injuries or conditions which

were a proximate cause, or producing cause, or the sole producing cause of Plaintiff's injuries and/or damages and not the result of any negligence on the part of this Defendant.

VIII.

Pleading further and without waiving the foregoing, Defendant specifically reserves the right to amend this Answer, as is its right under the Texas Rules of Civil Procedure.

PREMISES CONSIDERED, WAL-MART STORES, INC. prays that Plaintiff take nothing by this lawsuit, and that Defendant be allowed to go hence without day and recover all of their costs and attorneys' fees, and such other and further relief, both special and general, at law or in equity, to which they may show themselves justly entitled.

Respectfully submitted,

DAW & RAY, LLP

/s/ *Willie Ben Daw, III*

Willie Ben Daw, III; TBN: 05594050
Email: wbdaw@dawray.com
James K. Floyd; TBN: 24047628
Email: jfloyd@dawray.com
14100 San Pedro Ave., Suite 302
San Antonio, Texas 78232
(210) 224-3121 Telephone
(210) 224-3188 Facsimile

**ATTORNEYS FOR DEFENDANT
WAL-MART STORES, INC.**

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of the above and foregoing instrument has been served upon all known counsel of record by electronic service on this the 4th day of December, 2020.

Clay Bonilla Email: claybonilla@hotmail.com
THE LAW OFFICES OF WILLIAM BONILLA, P.C.
2727 Morgan Avenue
Corpus-Christi, Texas, 78405

/s/ Willie Ben Daw, III
Willie Ben Daw, III

Exhibit D

2020CV04280

NO.: 2020CV04280

E-FILED
Bexar County, County Clerk
Lucy Adame-Clark
Submission Date: 12/4/2020 3:28 PM
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Accepted By: Juan Teniente
Deputy Clerk

KAREN MILLS

§

IN THE COUNTY COURT

VS.

§

AT LAW NO. 2020CV04280¹⁰

WAL-MART STORES, INC.

§

BEXAR COUNTY, TEXAS

DEFENDANT'S DEMAND FOR JURY TRIAL

COMES NOW, Defendant WAL-MART STORES, INC. and hereby demands a jury trial as is their right under Tex. Const. Art. I, § 15. Such demand for jury trial is hereby made more than 30 days before the date this case is set for trial in accordance with Tex. R. Civ. P. 216. Defendant tenders the jury fee contemporaneously with the filing of this jury demand which they may show themselves justly entitled.

Respectfully submitted,

DAW & RAY, LLP

/s/ Willie Ben Daw, III

Willie Ben Daw, III; TBN: 05594050
Email: wbldaw@dawray.com
James K. Floyd; TBN: 24047628
Email: jfloyd@dawray.com
14100 San Pedro Ave., Suite 302
San Antonio, Texas 78232
(210) 224-3121 Telephone
(210) 224-3188 Facsimile

ATTORNEYS FOR DEFENDANT
WAL-MART STORES, INC.

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of the above and foregoing instrument has been served upon all known counsel of record by electronic service on this the 4th day of December, 2020.

Clay Bonilla
THE LAW OFFICES OF WILLIAM BONILLA, P.C.
2727 Morgan Avenue
Corpus-Christi, Texas, 78405

Email: claybonilla@hotmail.com

/s/ *Willie Ben Daw, III*
Willie Ben Daw, III

Exhibit E



**COUNTY CLERK & DISTRICT CLERK
COURT RECORDS SEARCH**

Case #2020CV04280

Name: KAREN MILLS

Date Filed : 9/3/2020

Case Status : PENDING

Litigant Type : PLAINTIFF

Court : 010

Docket Type : PREMISES

Business Name : 2020CV04280

Style : KAREN MILLS

Style (2) : vs WALMART STORES INC

Case History

Currently viewing all records

Sequence	Date Filed	Description
P00005	12/4/2020	DEFENDANT JURY DEMAND
P00004	12/4/2020	ANSWER TO ORIGINAL PETITION DEFENDANT, WAL-MART STORES INC'S ORIGIANL ANSWER TO PLAINTIFF'S ORIGINAL PETITION (4PGS)
P00003	11/20/2020	CITATION SERVICE RETURN
S00001	9/10/2020	CITATION WALMART STORES INC ISSUED: 9/10/2020 RECEIVED: 11/15/2020 EXECUTED: 11/16/2020 RETURNED: 11/20/2020
P00002	9/3/2020	PETITION ISSUANCE OF SERVICE
P00001	9/3/2020	PLAINTIFF ORIGINAL PETITION

Exhibit F

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

KAREN MILLS

§
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§
§

VS.

CIVIL ACTION NO.:

WALMART STORES, INC.

JURY DEMANDED

LIST OF COUNSEL OF RECORD

1. Clay Bonilla; SBN: 24055193
Email: claybonilla@hotmail.com
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(361) 882-8284 Telephone
(361) 881-1031 Facsimile
ATTORNEYS FOR PLAINTIFF,
KAREN MILLS

2. Willie Ben Daw, III; TBN: 05594050
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Email: jfloyd@dawray.com
Elizabeth W. Yancy; TBN: 24098642
Email: eyancy@dawray.com
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